

<p style="text-align: right;">Page 38</p> <p>1 <b>Q. I understand there are standards for making</b> 2 <b>sidewalks. We talked about settling. We talked about</b> 3 <b>freezing. I'm going to assume tree roots can push out</b> 4 <b>pieces of sidewalk?</b> 5 A. Yes, they can. 6 <b>Q. Is that a code violation when the piece of</b> 7 <b>sidewalk becomes unlevel with the adjoining piece?</b> 8 A. Yeah, I would -- I would say that it would be a 9 code violation. 10 <b>Q. Is there any enforcement of those violations?</b> 11 <b>Is that something, you call the Municipality of Anchorage</b> 12 <b>and they'll enforce the code?</b> 13 A. No. You could call them, and they probably 14 should -- I -- I guess I don't have an opinion on that, 15 because I haven't done it, so -- 16 <b>Q. If you were the officer to say that this</b> 17 <b>sidewalk was a code violation, what provision would you</b> 18 <b>cite?</b> 19 A. I would go back to the sections that say that -- 20 that the maximum difference in elevation that you're 21 allowed on any path of egress is a half-an-inch. And 22 that happens at doorways or thresholds. And that's the 23 exception that's made because, as a practical matter, you 24 need to have a threshold in a doorway. 25 <b>Q. Now, in your report you cite section 1008.1.6</b></p>	<p style="text-align: right;">Page 40</p> <p>1 A. I would say that, yes, there probably is. I 2 don't have access to it here today. But I can tell you 3 for sure that it is understood. 4 <b>Q. How about in this particular case at the Cattle</b> 5 <b>Company, the curb out to the parking lot, that appears to</b> 6 <b>be out of flat, that's an exception to the flatness of</b> 7 <b>where people walk?</b> 8 A. You're allowed to have rises at stairs and curbs 9 up to seven inches. So I'm -- I mean, so between your 10 street and the typical height for a curb is six inches, 11 but the code allows for stairways a maximum rise or 12 height of seven inches. 13 <b>Q. Is there a minimum rise or height?</b> 14 A. I think it's four. I would have to go back and 15 look. But, yes, they do have a maximum/minimum for the 16 same reason, they don't want -- there is a certain level 17 that people don't perceive well. And so you -- tripping 18 becomes a problem, too, so they define a minimum stair 19 riser height and a maximum. 20 <b>Q. When you say there's a point people don't</b> 21 <b>perceive well, what is the basis of that opinion? What</b> 22 <b>background --</b> 23 A. That's just general conversation with my 24 colleagues over the years. 25 <b>Q. Any colleagues with particular psychological</b></p>
<p style="text-align: right;">Page 39</p> <p>1 <b>for thresholds. Where is the provision that says</b> 2 <b>sidewalks can't be out of level? Or that -- is there any</b> 3 <b>provision that says -- that says this, the egress has to</b> 4 <b>be continuous?</b> 5 A. There is a section. I guess the assumption is 6 that -- and it's -- it -- I would have to go back and see 7 if I could track down the section, but the assumption of 8 all codes is that the floors are level. That's why you 9 can walk across the lobby here and not end up with 10 changes in floor level, even though it might be 11 convenient, and have tripping hazards. 12 <b>Q. That's an assumption of the code, but it's not a</b> 13 <b>provision of the code.</b> 14 A. Well, it is -- they have accepted the flatness 15 at doorways. So they've given you -- they've allowed 16 that there be a half-inch exception to flat when you walk 17 through a door. I mean, otherwise you wouldn't be 18 allowed that, otherwise you would have to have a flat 19 level means of travel through doorways, which is 20 impractical. 21 <b>Q. I'm not arguing what's smart design or what's</b> 22 <b>good design.</b> 23 A. Sure. 24 <b>Q. But is there a provision that says we're going</b> 25 <b>to have flatness? Is there a specific provision?</b></p>	<p style="text-align: right;">Page 41</p> <p>1 <b>training?</b> 2 A. No, just general conversation. 3 <b>Q. Engineering colleagues?</b> 4 A. And architectural colleagues. 5 <b>Q. Is there a minimum height for curbs? Is that</b> 6 <b>the same as stairs, or --</b> 7 A. You know, I don't know if there's a minimum 8 height. The Muni has standards for curbs. You can have 9 a rolled curb. You can have a curb for handicapped 10 access. And the -- I believe the -- I'd have to go take 11 a look at the typical detail, I think it probably rolls 12 down to about an inch or half-an-inch, something like 13 that. Those are just standard details that are put out 14 by the Muni. 15 And so the six inches works well. That's 16 usually the curb that we adopt and use in our projects. 17 Although, as I said, they have specific details for -- 18 approved details for a handicapped access from a sidewalk 19 to a street. 20 <b>Q. I think we're just about done. Just a second</b> 21 <b>here.</b> 22 <b>You would agree this sidewalk is not a landing</b> 23 <b>or a threshold; is that a fair statement?</b> 24 A. Uh-huh. 25 <b>Q. That's a yes?</b></p>

Richard Button

3:05-CV-00239

<p>Page 42</p> <p>1 A. Yes. Beyond the swing of the door, it's not.</p> <p>2 Q. Okay. I don't have any further questions.</p> <p>3 EXAMINATION</p> <p>4 BY MR. JURASEK:</p> <p>5 Q. Just one quick, regardless if there's an actual</p> <p>6 code violation, does this design of this sidewalk or its</p> <p>7 current condition create a trip hazard?</p> <p>8 MR. EARNHART: Foundation.</p> <p>9 THE WITNESS: In my opinion, yes.</p> <p>10 MR. JURASEK: No further questions.</p> <p>11 MR. EARNHART: All right.</p> <p>12 (Whereupon, the deposition was concluded</p> <p>13 and reading and signing of said deposition</p> <p>14 was not waived.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 44</p> <p>1</p> <p>2 REPORTER'S CERTIFICATE</p> <p>3</p> <p>4</p> <p>5 I, Britney E. Chonka, Court Reporter, hereby</p> <p>6 certify:</p> <p>7 That I am a Court Reporter for Alaska Stenotype</p> <p>8 Reporters and Notary Public in and for the State of</p> <p>9 Alaska at large. I certify Hereby that the forgoing</p> <p>10 transcript is a true and correct transcript of said</p> <p>11 proceedings taken before me at the time and place stated</p> <p>12 in the caption therein.</p> <p>13 I further certify that I am not of counsel to</p> <p>14 either of the parties hereto or otherwise interested in</p> <p>15 said cause.</p> <p>16 In witness whereof, I hereunto set my hand and</p> <p>17 affix my official seal this 10th day of October, 2006.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 BRITNEY E. CHONKA, REPORTER</p> <p>22 Notary Public - State of Alaska</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 43</p> <p>1 WITNESS CERTIFICATE</p> <p>2 MARLENE MEYER VS. ARG ENTERPRISES CASE NO. 3:05-cv-00239</p> <p>3 RICHARD BUTTON Taken September 28, 2006</p> <p>4 I hereby certify that I have read the foregoing</p> <p>5 deposition and accept it as true and correct, with the</p> <p>6 following exceptions:</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Date Read (Sign name here)</p> <p>23</p> <p>24 (Use additional paper to note corrections as needed,</p> <p>25 dating and signing each one.)</p>	<p>Exhibit <u>B</u></p> <p>Page <u>6</u> of <u>6</u> Pages</p>

12 (Pages 42 to 44)



RICHARD C. BUTTON, P.E.

Expert Witness Qualifications

I, Richard C. Button, P.E. have conducted numerous investigations and evaluations into both residential and commercial building envelope failure, i.e., condensation problems, chronic roof leaks, or roof, floor and wall failures. I have provided expert witness testimony on several occasions for slip and fall accidents. I have been approved as a qualified expert witness and have testified before the Alaska State Courts on at least two occasions.

I have been a licensed engineer by the State of Alaska since 1981.

In 1973, I graduated from the University of Washington (Seattle, Washington) with a Bachelor of Science degree in Civil Engineering. I have over 30 years of professional engineering experience (29 years of which have been in Alaska).

I am the founding principal of EEIS Consulting Engineers, Inc., an Alaska corporation established in 1985.

EEIS Consulting Engineers, Inc. (EEIS) has been involved as either the prime consultant, structural consultant, or project engineer on a variety of structural and civil engineering projects in Alaska.

My services have included structural engineering for residential, commercial, and industrial design in wood, steel, concrete and masonry. I provide design management on all major EEIS projects. In that capacity I participate in the conceptual design and layout of projects and then coordinate the various disciplines during project design.

RICHARD C. BUTTON, P.E.  
EXPERT WITNESS QUALIFICATIONS

I have been involved in the following cases in the last four years:

- 1) Brittain and Pentlarge - Scott vrs Mann Reviewed file, discussed case. Case settled in mediation.
- 2) Brittain and Pentlarge - Gillespie vrs. Arctic Structures Wrote report of opinion. Case pending.
- 3) Stone and Jenicek - Camille vrs Omni Reviewed information and discussed case. Case pending.
- 4) LeGros, Buchanan & Paul - Godwin vrs Pacific Rim Property Report and deposition. Case pending.
- 5) Bettine – Powell vrs Durango Visited site, provided report, was deposed. Case pending.
- 6) Brittain and Pentlarge – Miller vrs Schwamm Reviewed documentation of accident, did structural calclations, proivded written report. Case pending.
- 7) Stone and Jenicek - Turney vrs Haynes Visited site, provided written report.
- 8) Stone and Jenicek - Wood vrs Torrance vrs Little Bear Construction Visited site, provided verbal opinion.
- 9) Brittain and Pentlarge - Meyer vrs The Cattle Company Visited site, provided report.
- 10) Pentlarge - Wright vrs Russian Jack Apartments Visited site. Will provide report. Case pending.
- 11) Stone and Jenicek - Wasilla Case Visited site, provided drawings / cross section of site and verbal opinion.
- 12) Stone and Jenicek - Alexie vrs Dong Joon Lim Visited site and provided verbal opinion. Case pending.

Exhibit C

Page 2 of 3 Pages

RICHARD C. BUTTON, P.E.  
EXPERT WITNESS QUALIFICATIONS

- 13) Pentlarge – Adrian vrs Alyeska Princee Hotel Visited site and provided written report. Was deposed.
- 14) Bucholdt – Moell vrs Matsu Borough Visited site and provided written report.
- 15) Pentlarge – Breeze vrs Sinclair Visited site and provided written report.
- 16) Pentlarge – Byers vrs Century Theaters Wrote letter of professional opinion.
- 17) Stone and Jenicek – Cobb vrs CIRI vrs Waterworks On hold.

Richard C. Button, P.E. signature and seal at left has  
SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day  
of \_\_\_\_\_, 2006, AT Anchorage, Alaska.

Notary in and for the State of Alaska  
My commission expires:



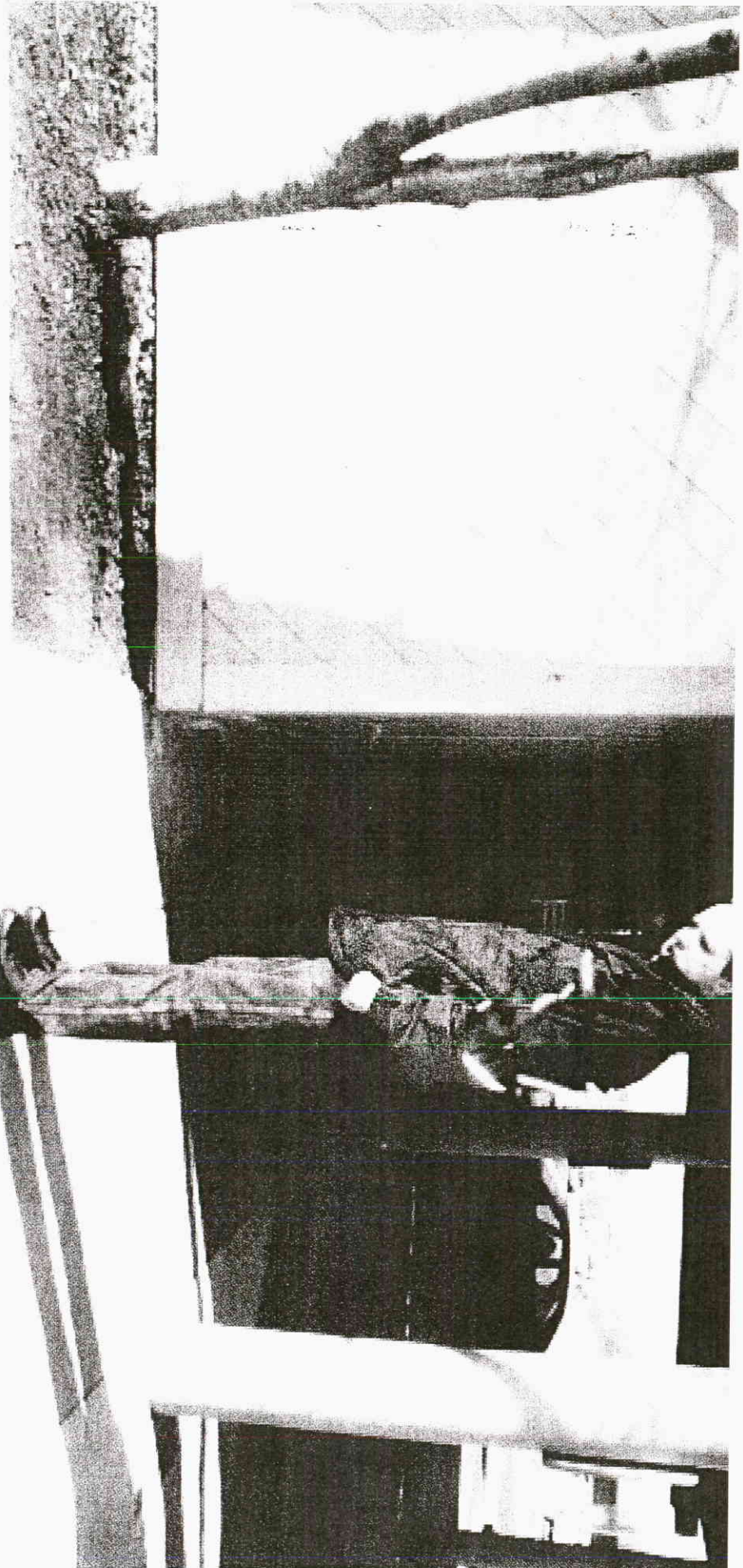


Exhibit D

Page 1 of 1 Pages